44. (New) The method of claim 43, wherein the body fluids are extracted from the body through the aspirating catheter so that the testing of the body fluids is performed external to the body.

B' cncl.

45. (New) The method of clam 40 wherein the body fluids are tested within the aspiration tube.

REMARKS

Rejection under 35 U.S.C. § 102

Claims 1-9, 11, and 19-22 were rejected under 35 U.S.C. 102(b) as being anticipated by Caprioli or Alberty et al. Applicant respectfully traverses that rejection.

As the Examiner is undoubtedly aware, in order for a reference to anticipate a claim that reference must contain each and every claimed element. Further, with respect to a "means plus function" claim, the specification must be consulted and the disclosed "means" and their equivalents must be construed.

In this case, the present invention is an implantable port body containing a tube that is in contact with a source of bodily fluid. Body fluid is aspirated through the tube and either extracted for remote testing outside of the body, or the body fluid itself is tested or otherwise evaluated within some portion of the port body.

Neither Caprioli or Albery et al. provide such a device. Caprioli teaches a microdialysis probe. Referring to FIG. 2, perfusate is caused to flow from a source, through channel 14, around bottom portion 38, up through probe 11 and out through tube 16. As the perfusate passes along dialyzing membrane 39 certain chemical substances are able to pass through that membrane and are extracted with the flowing perfusate. However, body fluids never enter probe 11, are never extracted, and are never directly analyzed. Caprioli specifically states that "dialyzing membrane 39 acts to allow *extraction of chemical substances* from the living animal, *without the removal of body fluids*." Col 3, lines 42-44 (emphasis added). Thus, all that can be tested or analyzed are the particular elements that are able to pass through the membrane via diffusion, and not the actual body fluid.

Albery et al. teach a very similar device. Specifically, their device includes a needle-like shank having a semi-permeable, dialysis fiber membrane and the shank is closed at its distal end. Thus, body fluids are not accessed or extracted nor are they directly evaluated or otherwise made available. Certain elements within the body fluid pass through the membrane and are measured.

The present invention provides an implantable port body that allows direct access to various body fluids. Those fluids can be extracted or a direct measurement or testing of the body fluid can occur within the implantable device. As such, neither Caprioli or Albery et al. anticipate the claims of the present invention.

New claims have been provided that are also patentably distinct from the references of record.

This application stands in allowable form and reconsideration and allowance is respectfully requested.

Respectfully submitted,

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